

Government of West Bengal  
Labour Department, I. R. Branch  
N.S. Building, 12<sup>th</sup> Floor, 1, K.S. Roy Road, Kolkata – 700001

No. Labr/ 829 / (LC-IR)/ 22015(16)/475/2018

Date : 17-07-2025

ORDER

WHEREAS under Labour Department's Order No. 421-IR/IR/11L-206/2011 dated 19.04.2013 with reference to the Industrial Dispute between Child In Need Institute (CINI), Vill. Daulatpur, P.O. Pailanhat, Via-Joka, 24 Parganas (S) and its workmen Smt. Fajila Bewa, Mrs. Nila Pandey, Mrs. Kanak Pahar, Mrs. Noornesha Bewa and Mr. Erat Mondal, represented by CINI Employees Union (Pailan)" (Registration No. 26125), Address: Vill. Daulatpur, P.O. Pailanhat, P.S. Bishnupur, Dist 24 Parganas (S), regarding the issues mentioned in the said order, being a matter specified in the Second Schedule of the Industrial Dispute Act' 1947 (14 of 1947), was referred for adjudication to the 4<sup>th</sup> Industrial Tribunal, Kolkata.

AND WHEREAS the 4<sup>th</sup> Industrial Tribunal, Kolkata, has submitted to the State Government its Award dated 11.07.2025 in Case No. VIII-26/2013 on the said Industrial Dispute Vide e-mail dated 11.07.2025 in compliance of Section 10(2A) of the I.D. Act' 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act' 1947 (14 of 1947), the Governor is hereby pleased to publish the said Award in the Labour Department's official website i.e **wblabour.gov.in**.

By order of the Governor,

  
Assistant Secretary

to the Government of West Bengal

No. Labr/ 829 /1(5)/(LC-IR)/ 22015(16)/475/2018

Date : 17-07-2025

Copy forwarded for information and necessary action to:

1. Child In Need Institute (CINI), Vill. Daulatpur, P.O. Pailanhat, Via-Joka, 24 Parganas (S).
2. Smt. Fajila Bewa, Mrs. Nila Pandey, Mrs. Kanak Pahar, Mrs. Noornesha Bewa and Mr. Erat Mondal, represented by CINI Employees Union (Pailan)" (Registration No. 26125), Address: Vill. Daulatpur, P.O. Pailanhat, P.S. Bishnupur, Dist 24 Parganas (S).
3. The Assistant Labour Commissioner, W.B. In-Charge, Labour Gazette.
4. The O.S.D. & E.O. Labour Commissioner, W.B. New Secretariat Building, 1, K. S. Roy Road, 11<sup>th</sup> Floor, Kolkata- 700001.
5. The Deputy Secretary, IT Cell, Labour Department with request to cast the Award in the Department's website.

  
Assistant Secretary

to the Government of West Bengal

No. Labr/ 829 /2(3)/(LC-IR)/ 22015(16)/475/2018

Date : 17-07-2025

Copy forwarded for information to :

1. The Judge, 4<sup>th</sup> Industrial Tribunal, Kolkata, N.S. Building, 1, K.S. Roy Road, Kolkata-700001 with reference to his e-mail dated 11.07.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata -700001.
3. Office Copy.

  
Assistant Secretary

to the Government of West Bengal

**In the matter of an Industrial Dispute between Child In Need (CINI), Vill. Daulatpur, P.O. Pailanhat, Via-Joka, 24 Parganas (S) Vs. Their Workmen Smt. Fajila Bewa, Mrs. Nila Pandey, Mrs. Kanak Pahar, Mrs. Noornesha Bewa and Mr. Erat Mondal represented by CINI Employees Union (Pailan)” (Registration No. 26125).**

**(Case No. VIII-26/2013)**

**Reference No: 421-IR/IR/11L-206/2011 Dated 19.04.2013**

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**BEFORE THE FOURTH INDUSTRIAL TRIBUNAL, KOLKATA, WEST BENGAL**

**P R E S E N T**

**SHRI NANDAN DEB BARMAN, JUDGE  
FOURTH INDUSTRIAL TRIBUNAL  
KOLKATA.**

**The Workmen Smt. Fajila Bewa, Mrs. Nila Pandey, Mrs. Kanak Pahar, Mrs. Noornesha Bewa and Mr. Erat Mondal, represented by CINI Employees Union (Pailan)” (Registration No. 26125),  
Address: Vill. Daulatpur, P.O. Pailanhat, P.S. Bishnupur, Dist 24 Parganas (S).**

..... Applicant/Union of Workmen.

Vs

**Child In Need Institute (CINI), Vill. Daulatpur, P.O. Pailanhat, Via-Joka, 24 Parganas (S).**

..... Opposite Party/Employer.

**A W A R D**

**Dated: 11.07.2025.**

**ISSUES TO BE ADJUDICATED**

- 1) Whether the voluntary retirement of Smt. Fajila Bewa, Smt. Nila Pandey, Smt. Kanak Pahar, Smt. Noornesha Bibi and Sri Erat Mondal with effect from 01.06.2004, 01.05.2003, 11.11.2005, 06.06.2005 and 10.08.2005 respectively were forced by the management of CINI or not?
- 2) If yes, to what reliefs are they entitled?

**Written Statement on behalf of Applicant/Union of Workmen**

1. That "CINI Employees Union (Pailan)" registered under the Trade Union Act 1926, having the representative characters of the employees who are the permanent workmen of CINI (Child in Need Institute) situated at Vill - Dalatpur, P.O.- Pailanhat, P.S. - Bishnupur, Dist. South 24 Parganas, West Bengal.
2. That the workmen under reference were illegally terminated from the service in the name of so called "Voluntary Retirement Scheme (V.R.S.)" of the above Institute. The names of the concerned workmen are (1) Mrs. Fajila Bewa (Project Worker), (2) Mrs. Nila Pandey (Senior Project Assistant), (3) Mrs. Kanak Pahar (Project Worker) (4) Mrs. Noornesha Bewa (Project Worker), and (5) Mr. Erat Mondal (Project Assistant), who were the permanent workmen of the above Institute and had been serving there continuously and uninterruptedly with the full satisfaction of the management for about 24 years. The workmen above named, were engaged by the management of the Institute for achieving of the objectives and activities of the Institute which the workmen concerned had been able to fulfill through their fullest ability, efficiency & hard labour.
3. That, the workmen under reference although performing their assigned duties with fullest ability, hard labour, efficiency & competency in the aforesaid organization continuously and uninterruptedly for the period since 01.07.1981, but their services were illegally terminated by way of forceful VRS from employment by the management of CINI.
4. That, there was no legal provision or valid order & circular published in the Institute for operating, regulating, guiding and implementing the VRS of services of the workmen concerned. All the VRS cases of workmen concerned were forced, whimsical, motive oriented to reduce the number of permanent workmen concerned with object to new recruitment in the same job on low payment and contract basis illegally, malafidely, contrary to Industrial Dispute Act, 1947 and statutory provisions of the bye laws, memorandum of association & rules and regulations of CINI.
6. That, suddenly the workmen concerned were terminated from service by way of forceful VRS by the management of the institute with effect from 01.05.2003, 01.06.2004, 06.06.2005, 10.08.2005 and 11.11.2005, respectively. The Assistant Director of the OP/Institute Sri Abinas Guine, who physically compelled the workmen Mr. Erat Mondal in signing the letter of voluntary retirement according to management's willingness, so as to force him to resign from service. Dr. S. N. Chowdhury and Sri Abinas Guine even did not bother

the realities that the concerned few workmen were ladies and their acts of termination them from service by way of VRS were amounts to physical humiliation upon them by touching and slashing the workmen concerned bodily which amounting to physical harassment and mental humiliation. Dr. Chowdhury, the Director of CINI told the workmen concerned that their service was no longer require as permanent service, rather they may be allowed to work on contract basis and finally the management of CINI had terminated their service in the name of VRS forcefully.

7. That, the workmen concerned recorded their protest against such illegal action of the management by letter dated 25.05.11 and complained as well as placed the written representation to the CINI management along with different authorities including local police station in individual capacity besides other written representations. The workmen under reference were given always hoax by the management for taking them false in service for which the poor and illiterate uneducated workmen did only approach them but instantly did not take any legal action. So, their delay in raising disputes was unintentional and that could be done only after formation of Union.
8. That, the management of the Institute had been attempting to regulate and or control the service condition of the employees concerned by formulating a “Voluntary Retirement Scheme” (VRS) for reduction of a sizable number of workmen in the name of so called VRS for the purpose of engaging the contractual workers in the place of permanent workmen.
10. That, the concerned workmen were forcibly taken in the closed room and all through threatened by the management Mr. Amit Kumar Dasgupta (Dy. Director, Adm.), Mr. Abinas Guine (Asst. Director) and Dr. S. N. Chowdhury (Director), Mr. Khalek Gharami (Cashier/Accountant), Mr. Manash Kanti Sarkar (Sr. P.O.) and Mr. Dipak Das (Asst. Director, Finance) and then driven out from the service illegally. The concerned workmen did not reach the age of superannuation as 60 years at the time of said VRS. The management of the Institute recruited contractual employees in the same job by terminating the services of the above permanent workmen who were happened to be the most experienced, efficient, active, dedicated, skilled employees working in the Institute, having sufficient age, health and competency. After VRS of a few workmen the management of the Institute recruited some workmen who were once terminated from the service in the name of so called VRS. The whole functioning of the management suffers from absolute illegality, unfairness and discriminatory in the eye of law. The workmen concerned after losing their permanent service became bewildered and were put in a terrible economic distress they were succumbed to the pressure of the management by accepting

the money which the management forced to them to put signature/thumb impression and accepted the readymade papers blindly. The workmen concerned were uneducated/illiterate people having no legal or intellectual ability of understanding of the legal consequences of the situation and without having any support from any corners they could not react timely & properly which the situation warranted. No registered trade Union was formed at that time of illegal act by the management to raise the Industrial Dispute.

11. That, the details of designations, date of birth, date of appointment, date of termination and the age at the time of termination of workmen concerned in the name of VRS are as follows: -

LIST OF ILLEGAL TERMINATION IN THE NAME OF FORCED VOLUNTARY RETIREMENT SCHEME.							
Sl. No.	Name of workmen	Designation	Date of birth	Date of Appointment	Date of VRS	Age of VRS	Terminated in the Name of VRS
01.	Fajila Bibi	P. Worker	02.07.52	01.07.1981	2004	52 yrs	Forced VRS
02.	Noornesha Bewa	P. Worker	22.03.52	01.07.1981	2005	53 yrs	Forced VRS
03.	Kanak Pahar	P. Worker		01.07.1981	2005		Forced VRS
04.	Erat Mondal	P. Assist	06.05.1954	01.01.1981	2005	51 yrs	Forced VRS
05.	Nila Pandey	Sr. P. Assist		19.02.1985	2003		Forced VRS

12. That ultimately the workmen concerned had to lodge the complaint before the Officer in Charge of Bishnupur Police Station on 15.08.11 and 26.07.11 referring the above grievances.
13. That, the above workmen concerned individually and in a collective way as well as through the registered trade union under reference ventilated their grievances before the management of the Institute as well as Labour Commissioner / Joint Labour Commissioner / Assistant Labour Commissioner and recorded their disputes in the letters as follows:
- 1) On 01.03.11 Letter of group petitioner to the L.C. and copy to Director, CINI.
  - 2) On 04.04.11 Nila Pandey prayer to Labour Commissioner.
  - 3) On 18.04.2011 Fajila Bewa prayer to Labour Commissioner.
  - 4) On 18.04.2011 Noornesha Bewa prayer to Labour Commissioner.
  - 5) On 18.04.11 Letter of group petitioner to the L.C. and copy to Director, CINI.
  - 6) On 25.04.2011 Erat Mondal prayer to Labour Commissioner.
  - 7) On 25.04.2011 Kanak Pahar prayer to Labour Commissioner.
  - 8) On 06.05.11 Letter of AISCT & BCECC to the Director, CINI.

- 9) On 17.05.11 Letter of group petitioner to the Asst. Labour Commissioner.
  - 10) On 17.05.11 Letter of AISCT & BCECC to the Labour Commissioner.
  - 11) On 25.05.11 Letter of group petitioner to the Director, CINI.
  - 12) On 06.06.11 Letter of CINI employee Union (Pailan) to the Chair Person, Women Right Commission.
  - 13) On 06.06.11 Letter of CINI employee Union (Pailan) to the Chair Person, Women Right Commission.
  - 14) On 27.07.11 Letter of AISCT & BCECC to the L.C.
  - 15) On 09.08.11 Letter of Registered “CINI employee Union (Pailan)” to the L.C. copy to CINI.
  - 16) On 15.08.11 and 26.07.11, Individual diary to the Police Station, Bishnupur.
  - 17) On 22.08.11 Letter of Registered “CINI employee Union (Pailan)” to the L.C copy to CINI.
  - 18) On 22.08.11 Letter of Registered “CINI employee Union (Pailan)” to the Chairman, CINI copy to Director, CINI.
  - 19) On 25.08.11 Letter of Registered “CINI employee Union (Pailan)” to the L.C.
  - 20) On 01.09.11 Letter of Registered “CINI employee Union (Pailan)” to the Minister Commerce & Industries.
  - 21) On 08.09.11 Letter of Registered “CINI employee Union (Pailan)” to the Chief Minister.
14. That, the workmen concerned prays for reinstatement in service with full back wages since the order of termination in the meaning of “Voluntary Retirement Scheme” is illegal, invalid and void in the eye of law.

### **Written Statement of the OP/Employer Institute**

The OP/Institute states as follows:

1. The Written Statement submitted by the Union contains various statements and/or contentions which are incorrect, baseless and misleading. The Institute would advert to those of the said Statement including portions thereof as are material for the proper disposal of the Reference. Save what have been specifically admitted hereinafter, the rests shall be regarded as denied.

2. The OP/Institute divides its contentions into two parts – Part-1 deals with the preliminary points as to the maintainability of the Reference and Part-II deals with the merits of the case. Since the points raised in Part-1, go into the root of the jurisdiction of the Learned Tribunal to entertain the Reference the same should be heard and disposed of first before going into the merits of the case.

#### PART-1

3. The OP/Institute submits that the Reference is not maintainable since the State Government has exercised the power after a lapse of 8, 9 and 10 years of Voluntary Retirement, which is not permissible in law.
4. The OP/Institute submits that the Reference is not maintainable since a stale dispute could not be a subject-matter of Reference under Section 10 of the Industrial Disputes Act, 1947.
5. The OP/Institute submits that the Reference is not maintainable when the matter has become final as a result of Voluntary Retirement it is incongruous that a Reference has been made under Section 10 of the Act.
6. The OP/Institute submits that the Reference is not maintainable since at the material time of making Reference no dispute could be pending.
7. The OP/Institute submits that the Reference is not maintainable since the demand raised by the Union is ex-facie bad and incompetent.
8. The OP/Institute submits that the Reference is not maintainable since the Reference does not take into consideration statutory requirement or travels outside cannot be sustainable in law.
9. The OP/Institute submits that the Reference is not maintainable since a delay ranging from 8 to 10 years is fatal and disentitled the concerned Ex-employee to any relief whatsoever.
10. The Institute submits that the Reference is not maintainable since the concerned employees after having accepted the amount payable under Voluntary Retirement Scheme is stopped and precluded from questioning the acceptance of offer of Voluntary Retirement.
11. The OP/Institute submits that the Reference is not maintainable since the concerned Ex-employees having accepted the Voluntary Retirement Scheme and were paid 'substantial amount' besides their terminal benefits and once they have accepted the voluntary retirement, they cannot turn around and attack the very basis thereof.
12. The OP/Institute submits that the Reference is not maintainable since once the concerned Ex-employees accepted the benefits under the Scheme, they cannot resile there from and such the Reference is bad in law.

13. The OP/Institute submits that the Reference is not maintainable since the concerned employee having accepted the benefits could not be permitted to approbate and reprobate nor can they be permitted to resile from their earlier stand.
14. The OP/Institute submits that the Reference is not maintainable since the doctrine of estoppels being a branch of Rule against assumption of inconsistent position which has happened in the instant case.
15. The OP/Institute submits that the Reference is not maintainable since one who knowingly accepts the benefits of the 'Voluntary Retirement Scheme', is to estopped from denying the binding effect thereof.
16. The OP/Institute submits that the Reference is not maintainable since the effect of 'Voluntary Retirement Scheme' is cessation of jural relationship between the employer and the employee and once the employee opt for voluntary retirement, he cannot raise a claim as has been sought to be done in the instant case.
17. The OP/Institute submits that the Reference is not maintainable since the concerned Ex-employees having applied for Voluntary Retirement and after having accepted the retrial benefit without any protest cannot now turn around and say that they were compelled to submit Voluntary Retirement.
18. The OP/Institute submits that the Reference is not maintainable since the concerned persons (Ex-employees) after having applied for VRS and taken money it is not open to them to contend that they exercised the option of VRS under any kind of compulsion and as such the Reference on the face of record is not sustainable.
19. The OP/Institute submits that the Reference is not maintainable since the same is based on incorrect assumption which is not permissible in law.
20. The OP/Institute submits that the Reference is not maintainable since the same suffers from the infirmity of suppression or distortion of material facts.
21. The OP/Institute submits that the Reference is not maintainable since the same suffers from the infirmity of non-application of mind inasmuch as there is an allegation that there is no Industrial Dispute and none apprehended which could be the subject matter of Reference for adjudication to the Industrial Tribunal under Sec. 10 of the Act and when there is no Industrial Dispute the appropriate Government lacks the power to make any reference.
22. The OP/Institute submits that the Reference is not maintainable since the appropriate Government had no material on the basis whereof the present Reference could be made.



PART-II

23. Without prejudice to the aforesaid submissions but fully relying upon the same, the OP/Institute replies to the paragraphs of the Written Statement (hereinafter referred to as the said Statement).
24. The statements made in Para- 1 of the said Statement are matters of record and any statement contrary to record is denied and disputed.
25. The allegations made in Para- 2 of the said Statement are denied and disputed. The plea of illegal termination from service after having applied for Voluntary Retirement and acceptance of the benefit there under cannot turn around to take the plea of illegal termination and the principle of estoppels would squarely apply in their cases.
26. The allegations made in Para- 3 of the said Statement are denied and disputed. The allegation of illegal termination by way of VRS forcefully after a lapse of 8 to 10 years is totally a fictitious narrative without having any basis. Such allegation is baseless and imaginary and barred by the principle of estoppels. The ingredients of force are totally conspicuous by their absence in the instant case. After the concerned Ex-employees of their own have applied for Voluntary Retirement and accepted the benefits there under leading to severance of relationship of employer and employee.
27. Save what are matters of record the contentions put forward in Para- 4 of the said Statement are denied and disputed. The concerned Ex-employees are called to substantiate the averment made therein.
28. The contentions and allegations put forward in Para- 5 of the said Statement are denied and disputed. It is denied and disputed that there was no valid orders or circulars published by the Institute for operating or regulating or writing or implementing VRS of the concerned Ex-employees. It is totally baseless that the VRS cases were forced, whimsical, motive oriented to reduce the number of permanent workmen with the object to new recruitment in the said jobs on low pay and contract basis illegally or malafide or contrary to Industrial Disputes Act and statutory provisions or by-laws or Memorandum of Association and Rules and Regulations of CINI as falsely or wrongly alleged. Such allegations are totally false, baseless and imaginary and the concerned Ex-employees after having opted for Voluntary Retirement and accepted the benefits there under, they are estopped from leveling any allegation.
29. The allegations made in Para- 6 of the said Statement are denied and disputed. There cannot be any termination by way of VRS by the OP/Institute. Since there was no termination by the OP/Institute, the question of termination forcefully or illegally on an unjustified manner by the Management does not arise. The allegation to the effect that the Assistant Director of the Institute, Sri

Abinash Guine physically compelled Mr. Erat Mondal in signing letter of Voluntary Retirement according to Management's wishes or forced him to resign from service is totally baseless and after-thought, to harass the Management after a lapse of 10 years. The extent of falsity has assumed such a proportion that the General Secretary of the Union has surpass the sense of decency and decorum by making indecent allegations of touching and slashing the concerned Ex-employees bodily amounting to physical harassment and mental humiliation by Dr. S. N. Chowdhury and Shri Abinash Guine. The allegations are imaginary, baseless, concocted and defamatory and it is open to the management to take appropriate steps for such defamatory allegations against the Authority. The allegation to the effect of terminating the service by VRS forcefully is totally baseless. The allegations are apparently inconsistent and in coherent. The falsity of allegations is a fictitious narrative manufactured after a lapse of 8 to 10 years.

Denying and disputing all other material allegations the OP/Institute submits that the reference is not maintainable and the prayers as made by the concerned workmen should be rejected.

#### DECISION WITH REASONS

The Applicant / Union of Workmen in order to establish their case adduced the oral evidence of two witnesses, namely Smt. Saraju Ranjit as PW-1, Smt. Fazila Bewa as PW-2 respectively and adduced so many documentary evidences, which have been exhibited as Exhibit-1 to Exhibit-35 respectively.

The documents as exhibited by the Applicant / Union are as follows:

Exhibit- 1.	Identity card of Smt. Fazila Bibi.
Exhibit- 1/A	Identity card of Smt. Noorunnisha Bibi.
Exhibit- 2	Pay slip for Smt. Fazila Bibi.
Exhibit- 3	Pay slip for Smt. Kanak Pahar.
Exhibit- 4	A letter Dt. 14.02.2011 to Dr. S. N. Chowdhury.
Exhibit- 5	A letter dt. 04.04.2011 to Labour Commissioner.
Exhibit- 6	A letter dt. 18.04.2011 to Labour Commissioner.
Exhibit- 7	A letter dt. 25.04.2011 to Labour Commissioner.
Exhibit- 8	A letter dt. 18.04.2011 to Labour Commissioner.
Exhibit- 9	A letter dt. 25.04.2011
Exhibit- 10	A letter dt. 17.05.2011 to Dy. Labour Commissioner.
Exhibit- 11	A letter dt. 17.05.2011.
Exhibit- 11/A	A Xerox copy of A/D card.
Exhibit- 12	A letter dt. 06.06.2011 to A. Mukherjee
Exhibit- 13	A letter dt. 06.06.2011 to Hon'ble Chairperson.
Exhibit- 14	A letter dt. 09.07.2011 publication in Hindi (With objection)
Exhibit- 15	A letter dt. 09.07.2015 The translation of Hindi to English.
Exhibit- 16	A letter dt. 26.07.2011 to PS Bishnupur
Exhibit- 17	A letter dt. 09.08.11 xerox copy of letter 13 pages

Exhibit- 18	A letter dt. 15.08.2011.
Exhibit- 19	A letter dt. 15.08.2011
Exhibit- 20	A letter dt. 12.08.11
Exhibit- 21	A letter dt. 08.09.2011 to CM, WB.
Exhibit- 22	A letter 21.09.2011
Exhibit- 23	A letter dt. 18.11.2011
Exhibit 24	A letter dt. 21.09.2011.
Exhibit 25	A letter dt. 19.10.2011.
Exhibit 26	A letter dt. 09.04.2012.
Exhibit 27	A letter dt. 04.05.2012.
Exhibit 28	A letter dt. 06.06.2013 D-2 Form.
Exhibit 29	A letter dt. 02.09.2013.
Exhibit 30	A letter dt. 03.12.2013.
Exhibit 31	A letter dt. 18.01.2014.
Exhibit 32	A letter dt. 2 <sup>nd</sup> August, 2011, Certificate of Reg. Trade Union.
Exhibit 33	A letter of Child In Need Institution Rules and Regulations.
Exhibit 34	A letter of Labour Commissioner Memo No. S/1560/128/11 LC dt. 21.11.2011.
Exhibit 35	A letter of Employees Recruited vs workman Concerned.

On the other hand, the OP/Institute (CINI) to establish their case have examined one witness namely Sri Nikhil Naskar as MW-1 and also exhibited some documentary evidences as Exhibit-A to Exhibit-J respectively, which are as follows:

Exhibit- A	3 <sup>rd</sup> Pay Review Committee Report, 1999.
Exhibit- B	The minutes of the meetings of 3 <sup>rd</sup> Pay Review Committee (Collectively).
Exhibit- C	The documents regarding Governing Body meetings of the CINI (Collectively).
Exhibit- D	A Chart pertaining to the payment made to the Workmen.
Exhibit- E	The documents relating to the work-woman Smt. Fajila Bibi (Collectively)
Exhibit- F	The documents relating to the work-woman Mrs. Nila Pandey (Collectively).
Exhibit- G	The documents relating to the work-woman Mrs. Kanak Pahar (collectively).
Exhibit- H	The documents relating to the work-woman Mrs. Noornesha Bibi (Collectively).
Exhibit- I	The documents relating to the workman Mr. Erat Mondal (Collectively)
Exhibit- J	A chart showing details of payment of Gratuity and Provident Fund to the ex-employees named in the Order of reference.

Let us now to discuss the respective arguments of the Ld. Counsel and Representative of the concerned parties to this case.

At the very outset Ld. Counsel representing the OP/Employer has argued that the main issue in connection with this case has to be adjudicated, “whether the Voluntary Retirement of Smt. Fazila Bewa, Smt. Nila Pandey, Smt. Kanak Pahar, Smt. Noornesha Bibi and Shri Erat Mondal w.e.f. 01.06.2004, 01.05.2003, 13.11.2005, 06.06.2005 and 10.08.2005 respectively were forced by the management of the OP/Employer i.e. CINI”. So, the concerned Union of the workmen who is representing the concerned workmen has to establish that they were forced by the management of the OP/Employer to get Voluntary Retirement as alleged. But no such relevant evidence could be adduced from the end of the Union or from the concerned workmen to establish that any forces were applied upon the concerned workmen by the management of the employer to work out such VRS. However, in this case under reference VRS of the concerned five workmen under reference given by the management on different dates within the year 2003 to 2005 is an undisputed fact.

He further argued that a Tribunal cannot travel beyond the issue under reference to adjudicate the dispute of the case and accordingly the Tribunal has to see whether there were any forces applied to the concerned workmen by the management of the employer CINI in effecting their VRS. In this regard drawing up attention of this Tribunal on the exhibited documents of OP/Employer i.e., Exhibit-A which is 3<sup>rd</sup> Pay Review Committee Report 1999, the Ld. Counsel further argued that in this Pay Review Committee amongst all other representatives of the management and the employees, one Smt. Nila Pandey as an employee as a Project Worker was also a representative in the said ‘Pay Review Committee’ and attended meetings of the committee held on different dates for discussions and decisions on different issues, including the review of VRS policy. Ultimately VRS policy was decided by settling that, “an employee who has completed 15 years of service without any break is eligible to apply for Voluntary Retirement”. “An employee is entitled to get benefits amounting to 5 months salary i.e. Basic + D.A (last drawn) per year of remaining years of service or a maximum of 50 months of his Basic + D.A”. However, subsequently in the year 2019 it was enhanced to 6 months from 5 months and in the year 2024 it was enhanced to 8 months Basic + D.A and maximum of 60 months Basic + D.A for remaining service period.

Beside his oral arguments Ld. Counsel also submitted a written notes of argument containing a table showing the names of respective five workmen and their dates of applications and acceptance of VRS, VRS compensation and total amount received, date of order of reference and the difference between the date of acceptance of VRS compensation and the date of reference. The said table is reproduced herein below:

Name	Exbt. Nos..	Date of Application	Date of Acceptance	Total amount Received on VRS.	Date of order of reference	Difference Between the Date of Acceptance And the date Of reference.
Smt. Fazila Bewa	E (collectively)	07.04.2004	31.05.2004	4, 16, 696/-	19.04.2013	3251 days.
Smt. Nila Pandey	F (collectively)	30.04.2003	01.05.2003	3,34,435.25	19.04.2013	3641 days
Smt. Kanak Pahar	G (collectively)	08.11.2005	10.11.2005	4,42,280.50	19.04.2013	2717 days
Smt. Noornmesha Bibi	H (collectively)	03.06.2005	03.06.2005	4,60,926.65	19.04.2013	2877 days
Mr. Erat Mondal	I (collectively)	02.08.2005	09.08.2005	6,07,482.05	19.04.2013	2810 days

Ld. Counsel further argued that none of the aforesaid 5 workmen raised any objection in getting such payment on VRS or refunded any such amount received refusing the said VRS at the relevant time of VRS or within a reasonable period after getting such amount on VRS. Admittedly, at the time of execution of the said VRS no such Union was in existence but it was purportedly coming into light and espoused the cause of aforesaid 5 voluntarily retired workmen after 7 to 8 years of their voluntary retirement from the service. As such since it was not an individual dispute covered under section 2A of the Industrial Disputes Act, 1947 the reference made by the Government at the behest of such purportedly after thought formed Union. However, no evidence could be adduced either from the end of the Union or from any workmen that any such workmen under reference was at all member of the purported Union. In this regard, during cross-examination on 09.07.2015 PW-1 Smt. Saraju Ranjit being the Secretary of purported Union identifying Exhibit-10, deposed that “this document has the description that those petitioner/workmen are the members of their Union”. During further cross-examination on 21.03.2016 contradicting her said evidence P.W-1 although stated first that, “their Union has filed documents to show that the workmen whose names appeared in the order of reference are the members of the Union but subsequently stated that they have not filed such documents”. Ultimately, it was admitted by the said P.W-1, that the person named in the order of reference are not the members of the said Union.

Thereafter, relying upon the documents i.e., Exhibit-E (collectively), Exhibit-F (collectively), Exhibit-G (collectively), Exhibit-H (collectively) and Exhibit-I (collectively) the Ld. Counsel of the OP/Employer submitted that all these documents are very much relevant to adjudicate the issue of this case in deciding in negative way as all these documents goes to show that all the five concerned employees under reference in terms of the VRS policy existing between the employer and the employees had applied for VRS to the management by putting their signatures on their respective applications and thereafter the management accepted their said prayers for VRS and granted them VRS by paying all such VRS benefits and claims as they were entitled to get in accordance with their VRS policy and all of them received the payments and acknowledged the same by issuing payment receipt with their respective signatures. But none of them refunded the money which they had received on account of voluntary retirement. In this regard, it

was admitted by P.W-1 in her cross-examination dated 09.07.2015 that “None of those petitioners refunded the money which they received from their voluntary retirement till today.

Ld. Counsel at the end of his argument submitted that the materials on record both oral and documentary leave no room for any doubt that in the instant case, the Union under reference does not have any representative character or locus standi to espouse any cause of the ex-workmen named in the Order of Reference as they were never the members of the Union under reference. **Secondly**, the aspect of calculation of money to be enjoyed by the employee regarding separation of employer-employee relationship on account of voluntary retirement were known to the employees, especially when Smt. Nila Pandey, who is involved in the present case was also the representative of the 3<sup>rd</sup> Pay Review Committee at the time of its recommendation. **Thirdly**, the union has miserably failed to show that the ex-employees concerned, ever refunded the money while challenging the cause for their severance of employer-employee relationship. **Fourthly**, all these aspects emphatically established that there did not arise any question of application of force on the part of the management of CINI and **lastly**, the enjoyment of money received on account of VRS without any protest and considerable period of time passed in between the payment made and the date of reference put beyond any doubt that the concerned ex-employees are estopped from contending anything about severance of employer-employee relationship on their own volition. It is well settled that in industrial jurisprudence the procedural law like estoppels, waiver and acquiescence are equally applicable. In this regard, Ld. Counsel relied upon the decision as made in *Manager, RBI, Bangalore vs. S. Mani & Ors.* reported in (2005) 5 SCC 100 Para 55.

On the other hand, the Representative of Applicant/CINI employees Union submitted his written notes of argument and has argued that an important and valid point to be adjudicated in the instant case whether, “there was any force in dealing with the so called VRS or not? If it was forced, then for what reliefs are the employees entitled to? According to his further argument there is no dispute that the concerned workmen were permanent workmen and the concerned institute i.e., CINI is an industry within the purview of Industrial Disputes Act, 1947 and it has been registered as a society under the West Bengal Firms, Society & Non-Trading Corporations Act, 1961 under control of Ministry of Commerce & Industry, West Bengal. He further argued that due to lack of authority of the concerned Deputy Director of CINI his entire act on so called VRS of the concerned employees were null and void and not effective in the eye of law. The CINI had no valid service rules within the purview of Industrial Disputes Act, 1947. The workmen concerned were never aware and / or informed about the so called VRS policy of CINI and it was never published, disclosed or circulated amongst the employees. The workmen

concerned were never willing to sign on the letters of applications on so called VRS which was made under instructions and drafting of the CINI management and it was forced to either copy writing by hand and / or signature on the drafting of so called VRS forcefully obtained in a secret and closed room to deal with the so called VRS. The workmen concerned were mostly just literate and somebody was illiterate and they had no legal knowledge to protest in formal way timely. At the time of so called VRS there was no existence of any trade union in the society (CINI). But there was a non registered platform of a formal group of workmen in the year 2010 and that group of workmen has been protested against the so called VRS of the concerned workmen and they raised protest against the management of the CINI and local police station and also to the Labour Commissioner & other appropriate Government authority. Subsequently, in the year 2011 a trade union has been registered under the name as “CINI Employees Union, Pailan” under Trade Union Act, 1926. The concerned workmen became members of the said CINI Employees Union, Pailan in the year 2011.

It has been further argued by him that the dispute has been raised by the Union as a representative of the concerned workmen within the purview of law and in such a case the law of Limitation Act & the principle of estoppels are not applicable.

The representative of the Applicant/Union further argued that there are evidences on record which can prove that the termination of service of the concerned workmen was a retrenchment by force with coercion at the time of writing and signing the letters for so called VRS. In this regard, it was alleged that the OP / CINI produced such documents by special leave petition at a later stage of the instant case by creating and manufacturing such forged documents after taking signatures from Smt. Nila Pandey in lieu of providing a plate of rice while she was living homeless under a tree. Ultimately, it was stated by the said representative of the Union that so called VRS was not a scheme or policy of CINI, rather it was a forced retrenchment of permanent employees for the purpose of engagement of new employees in their places.

Having heard the arguments of Ld. Counsel of OP/Employer and the Representative of the Applicant/Workman and on careful perusal of the pleadings of the parties and the oral as well as documentary evidences on record, admittedly it appears that there is no gross denial about the existence of relationship between the parties as Employer and Employees till the alleged VRS of the concerned employees under reference. So, keeping in mind the issues under reference we have to decide, “whether the Voluntary Retirement of Smt. Fazila Bewa, Smt. Nila Pandey, Smt. Kanak Pahar, Smt. Noornesha Bibi and Shri Erat Mondal w.e.f. 01.06.2004, 01.05.2003, 13.11.2005, 06.06.2005 and 10.08.2005 respectively were forced by the management of the OP/Employer i.e., CINI”.

Admittedly, there is no denial and dispute that the concerned five workmen under reference were permanent workmen and the concerned institute i.e., CINI is an industry within the purview of Industrial Disputes Act, 1947 and it has been registered as a society under the West Bengal Firms, Society & Non-Trading Corporations Act, 1961 under control of Ministry of Commerce & Industry, West Bengal.

The onus always lies upon the person who makes the complaint to prove his allegation by adducing relevant and cogent evidence. Accordingly, the applicant/Union of workmen who is representing the case of concerned workman has to establish that the concerned 5 workmen under reference were forced by the management of OP/ employer to get VRS as alleged. In this regard it was alleged by the concerned Union that all the VRS cases of the workmen were forced, whimsical, motive oriented to reduce the number of permanent workmen with an object for new recruitment in the same job on low payment and on contract basis. It was also alleged by the concerned Union that the concerned workmen were suddenly terminated from their service by way of forceful VRS by the management of the OP/ employer on different dates i.e. on 01.05.2003, 01.06.2004, 06.06.2005, 10.08.2005 and 11.11.2005 respectively, when the Assistant Director of the OP Institute Shri Abinash Guin physically compelled the workman Mr. Erat Mondal in putting his signature on the letter of voluntary retirement and forced him to resign from service. It was also alleged by the said Union that said Abinash Guin and Dr. S. N. Chowdhury, the management of the OP/Institute told the concerned workmen including 4 lady workmen that their services were no longer required as permanent service and accordingly terminated their services by way of VRS, which amounts to physical humiliation upon those lady workmen by touching and slashing them bodily causing physical harassment and mental humiliation. The allegation made by the Union goes to some extent that in which it was tried to state that no workmen was willing to sign the letters of applications for so-called VRS, which were made by the instruction and drafting of the management of CINI but signatures on the so-called drafted letters of VRS applications were obtained forcefully in a secret and closed room.

Having perusal of entire evidence on record adduced from the end of the applicant/Union of workmen no such relevant and cogent evidence could be found to be adduced from the end of the applicant/Union to establish that any such forces were applied at any point of time or at any place by the alleged two persons of the management of OP/Institute as named above or any other person of the management of the OP/Institute applied any such force either physically or mentally as alleged in effecting such VRS to the concerned 5 workmen.



Had there been any such physical or mental force or harassment by touching and slashing bodily to any lady workmen by the alleged persons of the management on the first date of VRS in respect of Smt. Nila Pandey on 01.05.2003 then certainly said lady employee ought to have raised objection and protest against such illegal forceful act to the management of the OP/Institute and also to inform the police station within a reasonable period but not after a long 8 years as happened in connection with this case. Had there been any such incident of applying force by taking said workman Smt. Nila Pandey in the closed room and all through threatened her by the management named as Mr. Amit Kumar Dasgupta, Dy. Director, Mr. Abinash Guin (Assistant Director), Mr. S. N. Chowdhury (Director), Mr. Khalek Gharami, Mr. Manosh Kanti Sarkar and Mr. Dipak Das then certainly they ought to have booked for an offence of a criminal case if the alleged victim lodged any complaint to the police within a reasonable period. According to the allegation of the Applicant/Union said Nila Pandey claims to have the first victim got effected on 01.05.2003. Had there been any such incident with Smt. Nila Pandey as alleged and had she been lodged any complaint to any authority within a reasonable time, then chances of repetition of similar type of incidents with other 4 employees will be very remote. However, according to the allegation of the applicant/Union similar types of alleged forceful incidents took place with 4 other employees on different dates i.e. on 31.05.2004 with Smt. Fazila Bibi, on 03.06.2005 with Smt. Noornesha Bibi, on 09.08.2005 with Mr. Erat Mondal and lastly on 10.11.2005 with Smt. Kanak Pahar. All these five dates are not any imaginary dates but the dates of acceptance of the prayers of the concerned five workmen for getting their voluntary retirement from employment of the OP/Institute in lieu of their VRS benefit money in accordance with the recommendation of their 3<sup>rd</sup> Pay Review Committee. Unfortunately, we have to see the inconsistency in the allegation labelled against the above-named persons of the management, including the Director of the OP/Institute. Interval between alleged first date of incident of VRS to second date of incident of VRS appears to be more than one year i.e., about 12 months and interval between alleged subsequent incidents of VRS appears to be another one year more i.e., at least 2 years later from the first date of alleged incident.

It was alleged by the applicant Union that with an object to new recruitment in the same job with low payment and on contract basis such VRS were effected by applying force by the management of OP/Institute, but it is very difficult to understand that had there been any such policy or object on the part of the management then why they effected such VRS with the interval of one year or more from the alleged first date of incident of VRS with Nila Pandey and with other 4 workmen taking time for more than 2 years. Had there been any such policy of the OP/Institute then the management ought to have effected the same at a time by

applying alleged force upon all those 5 workmen but beside some allegations with surmise and conjecture no such relevant evidence could be adduced from the end of the applicant/Union to show that the OP/Institute with the object of new recruitment in the same post on low payment and on contract basis said VRS were effected upon those five workmen under reference. The concerned applicant/Union also failed to establish by adducing relevant evidence to establish that any such person was subsequently recruited by the management in place of the job of the concerned retired workman on VRS on low payment or on contract basis. Making allegation on mere surmise and conjecture is not sufficient to establish a case. It was alleged by the applicant/Union that the Assistant Director of the OP/Institute physically compelled the workmen Mr. Erat Mondal in putting his signature on the VRS application in order to force him to resign from the service but to prove the same no cogent evidence could be adduced by the Union.

On the other hand, the defence case of the OP/Employer as made out from their pleadings and evidences on record clearly goes to show that all the 5 concerned employees under reference, for whom the purported Union is representing in terms of the recommendation of 3<sup>rd</sup> Pay Review Committee consisting of the representative of both management and the employees, including one employee under reference Smt. Nila Pandey have applied for VRS one after another on different dates during the period of long 2 years.

In order to establish that all the five concerned workmen in terms of the VRS policy existing between the employer and employees had applied for VRS to the management of the OP/Institute by putting their signatures on their respective applications and thereafter the management accepted their said prayers for VRS and granted them VRS by paying all such VRS benefits and claims as they were entitled to get in accordance with their VRS policy and all of them received the payments and acknowledged the same by issuing payment receipt with their respective signatures has exhibited 3<sup>rd</sup> Pay Review Committee Report as Exhibit-A and minutes of the meeting of 3<sup>rd</sup> Pay Review Committee as Exhibit-B (Collectively) and Exhibit-E, F, G, H & I respectively.

Having perusal of Exhibit-A & Exhibit-B (collectively) in consonance with the pleadings as well as arguments of the OP/Institute clearly it is established that amongst all other representative from management and the employees concerned employee under reference of this case Smt. Nila Pandey was also a representative in the said 3<sup>rd</sup> Pay Review Committee and she put her signatures on every page of the said documents of the 3<sup>rd</sup> Pay Review Committee. There is no endorsement from her end on those documents to show that she raised any objection with regard to any clauses or conditions of the said report of the 3<sup>rd</sup> Pay Review Committee. So,

undoubtedly it is established that the said report of the 3<sup>rd</sup> Pay Review Committee was accepted by all concerned without any objection or protest.

Now, if we go through the documents of Exhibit-5 (collectively) then it would appear before us that the said Nila Pandey i.e., the concerned employee under reference of this case had applied voluntarily on 30.04.2003 by writing a letter with her signature to the Director of the OP/Institute praying for getting voluntary retirement from the service, which was accepted by the OP/Employer on 01.05.2003 and total VRS benefit including Festival Allowance of Rs. 206722.25 was paid to her through a cheque, dated 15.05.2003, which was duly acknowledged by the applicant Smt. Nila Pandey by issuing receipt dated 19.05.2003. Similarly, from Exhibit-E (collectively) it appears that after one year another employee namely Fazila Bibi had also applied for V.R.S on 07.04.2004, which was accepted by the OP/Employer on 25.05.2004 and VRS benefits along with other allowances amounting to Rs. 280492/- was paid to her through a cheque dated 07.06.2004 and Fazila Bibi acknowledged the same by issuing receipt dated 09.06.2004.

Exhibit-H (collectively) goes to show that after one year from the said VRS of Fazila Bibi another employee under reference Smt. Noornesha Bibi had also applied for VRS on 03.06.2005, which was accepted by the OP/Employer on the same date, i.e. 03.06.2005 and the entire VRS benefit amounting to Rs. 273161.65 was paid to her by a cheque dated 23.06.2005, which was acknowledged by the said Noornesha Bibi by issuing receipt dated 29.06.2005.

Similarly, Exhibit-I (collectively) also goes to show that another employee under reference Mr. Erat Mondal had also applied for VRS on 02.08.2005, which was accepted by the OP/Employer on 09.08.2005 and the entire VRS benefit of Rs. 391301/- was paid to him by a cheque dated 16.08.2005 and Shri Mondal acknowledged the same by issuing a receipt dated 17.08.2005.

Lastly from Exhibit-G (collectively) it would appear that another employee under reference Smt. Kanak Pahar had also applied for VRS on 08.11.2005, which was accepted by the OP/Employer on 10.11.2005 and the entire VRS benefit of Rs. 246371.50 was paid to her by cheque dated 09.12.2005 which was acknowledged by him by issuing a receipt dated 12.12.2005.

Nothing about the reliability of the above discussed documents of OP/Employer could be discarded or shaken at all during cross examination of the concerned witness (MW-1) of OP/Employer.

Admittedly there is no endorsement on any such receipt or application of any workman under reference that he or she received such amount of VRS benefits on protest or objection. All of them duly received the said amount by putting their respective signatures on the receipts of payments but none of them refunded any

such amount of VRS benefits at any point of time by disregarding or protesting the VRS alleged to have been given them by applying force upon them.

So, from the above discussed documentary evidences adduced from the end of the OP/Employer, clearly it is established that the applicant/Union has measurably failed to establish their case that any such workman under reference was forced by the management of OP/Employer to get voluntary retirement from service as alleged, rather it has been established beyond shadow of doubt that all the five workmen under reference giving due regard to the recommendation of 3<sup>rd</sup> Pay Review Committee regarding the VRS policy out of their own volition had applied for VRS on different dates with the intervals of more than two years from 1<sup>st</sup> application of Nila Pandey to last application of Kanak Pahar. It is also revealed from one and two applications that there was little bargaining regarding some allowances and the management of the OP/Employer having a considered view allowed such prayer and granted VRS to the concerned workman.

Admittedly, there was no existence of any Trade Union in the establishment of CINI at the relevant period of VRS of those five employees under reference and it is also admitted fact that no such dispute raised by any such employee under reference for the period from 01.05.2003 to 10.11.2005. None of the aforesaid employees under reference raised any dispute or complaint individually within a reasonable period of 1-2 days, 1-2 months or 1-2 years from the date of effect of their VRS.

According to the pleadings of the applicant/Union first protest on such VRS was raised by the workman by their letter to the management dated 25.08.2011 i.e. after prolong 8 (eight) years of first VRS of Smt. Nila Pandey. From the documents as exhibited from the end of the applicant/Union it appears that having a delay from first VRS of workman under reference Smt. Nila Pandey for 8 years and last VRS of Smt. Kanak Pahar for about 6 years, the concerned workmen under reference and the applicant/Union jointly and severely since 16.02.2011 started to make correspondence with the management of the OP/Institute, local police station and the Labour Commissioner of Government of West Bengal by raising dispute with some allegations but nobody from the above-named five workmen refunded the money which they had received on account of voluntary retirement. In this regard, it was admitted by P.W-1 in her cross-examination dated 09.07.2015 that “None of those petitioners refunded the money which they received from their voluntary retirement till today”.

Having perusal of all those documents of correspondence regarding raising of dispute on alleged forceful VRS as exhibited from the end of the applicant/Union as Exhibit-4 to Exhibit-31 respectively, it appears that all those documents and correspondents contains stereo-type common allegations of forceful VRS to concerned employees under reference. As regards, the delay in lodging such

complaint and raising of disputes, the explanation from the end of the Applicant/Union is illiteracy of the concerned workman and non functioning of any trade union for them. But there is no reasonable explanation as to what prevented any one of said five workmen under reference to make a complaint to the local police station and to raise dispute and objection to the concerned management of the OP/Institute within a reasonable period from the date of use of alleged force upon them by the persons of the management in taking them in a closed room for having VRS.

May be there is no provision for limitation in making reference of disputes to the Industrial Tribunal under section 10 of Industrial Dispute Act, 1947, but the provision of limitation is applicable for making an application before the Industrial Tribunal u/s 2A of Industrial Disputes Act, 1947 for adjudication of the dispute with regard to dismissal, retrenchment and termination etc., where such application should be made before the expiry of three years from the date of such dismissal, retrenchment and termination etc. Not only in Civil Laws the provision of limitation is applicable but in Criminal Laws for entertaining any complaint a period of limitation is also applicable. In Civil Laws a person can be declared dead, if he is not found and heard for a period of 7 years but in this case breaking all such norms of limitation of reasonable period the concerned Union of workmen raised dispute with allegation of using force by the management or giving VRS to its employees under reference at an abnormal belated stage. However, from my above discussions with regard to the documentary evidences of the OP/Employer it has already decided that all such allegations of applying force by taking the concerned employees under reference in a closed room on different dates within the period of long two years for compelling them to take VRS by some high ranked officials of the management of the OP/Institute are nothing but after thought and vague. So, in no way the VRS under reference can be termed or treated as a termination or retrenchment by force as claimed by the applicant/Union.

Having perusal of the evidences on record admittedly it also appears that no documentary evidence can be adduce either from the applicant/Union or from any workman under reference to show that they were the member of the applicant/Union or that the applicant/Union has any authority to espouse the cause of concerned workman under reference to raise their dispute. There is no whisper in the material on record that Smt. Saraju Ranjit, who deposed on behalf of the Applicant/Union as PW-1 had any direct connection or knowledge with the concerned five workmen under reference when cause of action arose at the time of alleged forceful VRS of the concerned employees. Voluntary Retirement from Service means and includes voluntary act of both the employer and employee with regard to retirement of an employee from the service. Since it is a voluntary act of the parties, then after

execution of the act the relations between the parties as employer and employee no more exists. But after long 8 years when no relation of Employer – Employee is existing between the concerned employer and employees under reference due to acknowledgement of all VRS benefits and also due to lapse of time, then on formation of a Trade Union after abnormal belated stage of 8 years raising such dispute with above discussed after thought allegations and making correspondence for preparation of documents are not only abuse of process of law but also misuse of labour rights with the pretext of formation of a Trade Union.

So, considering the above discussed facts and circumstances coupled with the documentary evidences on record, I find nothing convincing to believe that any force was applied to any employee under reference in effecting their voluntary retirement from service. It is admitted position of law that this Tribunal cannot travel beyond the issue under reference. According to the reference the one and only issue to be adjudicated in this case to the effect that, “whether the voluntary retirement of the above-named employees under reference were forced by the management of the CINI or not”. So, from my above discussion it has already been decided that there was no force applied by the management of CINI with respect to the voluntary retirement of all those 05 (five) workmen under reference. However, in their claim statement the concerned Applicant/Union has prayed for reinstatement of service of the concerned workmen under reference with full back wages since their order of termination, but the fact reveals from their written statement itself that all of them had already crossed the age of superannuation. So, even if the award goes in favour of them, they won’t be entitled to be reinstated. Since, they have already received the VRS benefit and other VRS related compensation without any objection or protest for the periods in which they did not work and did not return any such amount to OP/Employer before or after raising dispute, then no relief of back wages will be available to them in case an award goes in favour to them.

Since, the aforesaid issue of applying force has been decided on the basis of direct oral evidence and relevant documentary evidences, then no further discussion is required on other points as advanced by the parties to this case. Similarly, on the same ground no further discussion about any decision of any court is also required to adjudicate the issue in connection with this case and accordingly to avoid repetition of discussions on any other point, I conclude my discussion in passing Award in connection with this case.

All the issues are accordingly adjudicated against the Applicant/Union of Workmen.

Hence, it is

**ORDERED**

that voluntary retirement of Smt. Fajila Bewa, Smt. Nila Pandey, Smt. Kanak Pahar, Smt. Noornesha Bibi and Sri Erat Mondal with effect from 01.06.2004, 01.05.2003, 11.11.2005, 06.06.2005 and 10.08.2005 respectively were not forced by the management of CINL.

The instant case under reference is accordingly dismissed on contest, but without any order as to cost.

This is my award.

Let a copy of this order be sent on line in PDF form to the Secretary, Labour Department, Government of West Bengal, N.S. Buildings through the dedicated e-mail for information and doing subsequent action as per provision of law.

Dictated & Corrected by me

**Sd/-**

Judge

**Sd/-**

Judge  
Fourth Industrial Tribunal  
Kolkata.  
11.07.2025.